

Maat for Peace's Report Submitted to the Committee against Torture on Egypt

Submitted by Maat for Peace, Development, and Human Rights

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Maat for Peace, Development and Human Rights submits this report to the Committee against Torture, before Egypt's review at the 78th session, held from October 30 to November 24, 2023. Egypt became a party to the Convention against Torture on June 25, 1986, under Presidential Resolution No. 154 of 1986, only two years and a few months after the Convention was adopted by the United Nations General Assembly on December 10, 1984, under Resolution No. 46/39. Egypt ratified the agreement without expressing any reservations. However, Egypt is still a non-party to the Optional Protocol attached to this Convention. Egypt has submitted five reports to the Committee against Torture since it ratified the convention, the last of which was on September 13, 2021.

Maat praises Egypt's development of the National Human Rights Strategy and the allocation of a sub-item in the first axis on civil and political rights related to the right to physical integrity and freedom from torture. This sub-section outlines the obligation to eliminate torture in all forms. However, Maat still has concerns about the slow progress of the implementation of the targeted outcomes from the subsection related to the right to bodily integrity.

This report is based on Maat's review of the list of issues submitted by the Committee against Torture in May 2023, as well as a review of the national report submitted by Egypt in September 2021. Maat provides the Committee with updates on any recent developments that are closely linked to the issues addressed in the list. It also focuses on measuring progress on a group of issues raised by the Committee in this list, the challenges facing the Egyptian government to fully implement the provisions of the Convention, particularly concerning the definition of torture in the Penal Code; the constitutional and legal framework; capacity-building for law enforcement officials, police officers and judges; considering joining the Optional Protocol to the Convention; the connection between human trafficking and torture; as well as investigating allegations related to torture and providing compensation to its victims and their families.

Definition of Torture in Egyptian law

In the list of issues submitted by the Committee on May 12, 2023, the Committee requested the Egyptian government to provide clarification on the legislative measures taken by Egypt to modify Article 126 of the Egyptian Penal Code regarding the definition of torture to cover all forms of torture mentioned in Article 1 of the Convention¹. Maat recalls that Article 126 of the Penal Code states: "Any civil servant or public employee who ordered or committed torture to force an accused to confess shall be imprisoned from three to ten years. If the victim dies, he shall be sentenced to the penalty prescribed

¹ List of issues in relation to the fifth periodic report of Egypt, <https://tinyurl.com/3h2hmrtx>

for intentional murder². The Egyptian law limits the elements of the crime of torture to the fact that the perpetrator is a public servant, with the need for the victim to be accused, and without the availability of these two characteristics, the legal form of the crime of torture in Egyptian law is not complete. The law does not encompass all types of torture and its definition of torture is only partially in line with the one presented in the Convention³, despite the clear prohibition of all forms of torture contained in Article 52 of the Constitution and the making of torture a crime with no statute of limitations⁴.

Maat shares the opinion of the National Institution for Human Rights in Egypt, regarding the necessity of amending Articles 126 and 129 of the Penal Code, which include some of the forms and types of torture mentioned in the Convention, provided that the definition of the crime of torture is in line with the Convention, and includes all forms of torture and cruel and degrading treatment. The convention has the force of law under Article 93 of the Egyptian Constitution, which stipulates that “The state is committed to the agreements, covenants, and international conventions of human rights that were ratified by Egypt. They have the force of law after publication in accordance with the specified circumstances⁵.”

In the same context, Maat praises the adoption of the guide issued by the Permanent Higher Committee for Human Rights of the Egyptian Ministry of Foreign Affairs in 2022, a definition of torture that is consistent with the definition contained in Article 1 of the Convention against Torture, which may represent a first step in amending the definition of torture in a manner consistent with Article 1 of the Convention⁶. Maat acknowledges the interpretation of Article 1 in the fifth national report submitted by Egypt to the Committee. It also believes that the claim regarding difficulties in aligning the definition in national laws with Article 1 of the Convention due to varying interpretations among member states⁷ should not be used as an excuse to avoid establishing a comprehensive definition of torture in national legislation that is in line with Article 1 of the Convention.

Constitutional & Legal Framework against Torture

In the list of issues submitted to Egypt, the Committee against Torture requested specific information about the penalties for the practice of torture. After reviewing the Penal Code and other national laws that address the crime of torture, Maat observed the presence of numerous safeguards within Egypt's constitutional and legal framework. These safeguards ensure the protection of individual rights and freedoms, as well as prohibit any form of physical or mental harm. Additionally, there are measures in place to prosecute individuals who commit acts of torture in a court of law. As we previously reported, the Egyptian Constitution amended in 2019 stipulates that torture in all its forms and manifestations is a crime without a statute of limitations. Article 126 of the Penal Code punishes

² Amended Egyptian Constitution 2019, Legal Publications, Article 68, at the following link:

<https://manshurat.org/node/14675>

³ According to Article 1 of the Convention, torture is defined as intentionally causing severe physical or mental pain or suffering to a person for various purposes such as extracting information or confessions, punishing them for an alleged act, coercing or intimidating them, or based on any form of discrimination. This definition also includes acts of torture carried out, approved, or tolerated by officials or individuals in positions of authority. This does not include pain or suffering arising only from a result of legal sanctions and is necessary or incidental to those sanctions.

⁴ Amended Egyptian Constitution 2019, Article 52, at the following link: <https://manshurat.org/node/14675>

⁵ The National Center for Human Rights calls for amending Articles 126 and 129 of the Penal Code, Al-Masry Al-Youm, at the following link: <https://www.almasryalyoum.com/news/details/1348959>

⁶ Guidance guide to core topics in human rights 2023 <https://sschr.gov.eg/media/z20n4cyn/final-3.pdf>

⁷ Fifth periodic report submitted by Egypt under article 19 of the Convention, due in 2004, <https://tinyurl.com/4vf9z57>

every public employee responsible for the torture of a detainee is liable for imprisonment for three to 10 years, depending on the gravity of the torture incident. The same article also stipulates the penalty prescribed for premeditated murder if the torture resulted in the death of the detainee⁸. Article 282 of the Egyptian Penal Code stipulates a sentence of “harsh imprisonment” for “anyone who unlawfully arrests a person and threatens to kill him or subjects him to physical torture”⁹.

However, the absence of a separate law against torture consistent with the provisions of the Convention remains a gap in the legal framework guaranteeing the fight against torture in Egypt, where the adoption of a law against torture is a good practice, according to the Special Rapporteur on the fight against torture and the Office of the High Commissioner for Human Rights. There are also countries in the same geographic neighborhood as Egypt that have recently taken steps to pass laws against torture.

The existence of a law against torture could also ensure a definition of torture that is compatible with the definition contained in the Convention. It could also stipulate articles that allow victims of torture to initiate criminal proceedings, as the prosecution alone is responsible for filing and conducting criminal proceedings in cases of torture in which public officials are accused. It will be a response to a series of recommendations made to Egypt throughout the universal periodic review cycles, as well as recommendations made by the Committee against Torture and other treaty committees. The process of approving the aforementioned law requires a collaborative process among stakeholders, including civil society organizations.

In a related context, the Committee requested information about the criminal provisions and penalties applied to crimes of attempted or complicity in committing torture. Here, we would like to emphasize that the Egyptian Penal Code, in article 40, contains a general rule that a person must be an accomplice to the crime of torture whenever he or she incites or agrees with others to commit it or assists the perpetrator in the preparation, facilitation or complement of the acts¹⁰. Article 41 of the same law punishes the accomplice in the crime with the same penalty imposed on the original perpetrator. In general, Maat noted that the constitutional and legal framework in Egypt is surrounded by various guarantees to protect against torture, which was emphasized in the National Human Rights Strategy, specifically within the section on civil and political rights, which is the item on the right to life and physical integrity. This stipulates the importance of ongoing efforts to combat torture in all its forms, investigating all relevant allegations, and protecting the rights of victims in accordance with the Constitution and obligations related to human rights ratified by Egypt¹¹. In the same item, the strategy also aimed to limit all forms of individual practices that constitute violations of the sanctity of the body, whether in executive institutions or public and private places. However, transforming the texts contained in the strategy into executive procedures still requires extensive efforts from the Egyptian government and all other stakeholders.

Ratifying the Optional Protocol to the Convention against Torture

In the list of issues, the Committee requested the Egyptian Government to clarify recent developments related to the consideration of ratification of the Optional Protocol to the Convention against Torture. This protocol aims to establish a system of regular unannounced visits by national and

⁸ The Egyptian Criminal Justice System’s Readiness to Prosecute Core Crimes: Goest Thou? <https://tinyurl.com/5n8njbpy>

⁹ Penal Code, Article 282, at the following link <https://manshurat.org/node/14677>

¹⁰ Ibid Article 40, at the following link <https://manshurat.org/node/14677>

¹¹ National Human Rights Strategy, p. 17, <https://sschr.gov.eg/media/xaonutei/arabic-strategy-final.pdf>

international observers to prevent torture and other forms of ill-treatment. Maat has observed that during the third cycle of the Universal Periodic Review in November 2019, Egypt received four recommendations regarding the ratification of the Protocol, related either entirely to joining the Optional Protocol annexed to the Convention or in part of the recommendation and Maat had noted Egypt's acceptance of three partial recommendations, while one recommendation was considered unacceptable. However, in Recommendation No. 73 submitted by the State of Slovenia, Egypt supported the part related to considering the ratification of the Optional Protocol attached to the Convention against Torture.

This means that the Egyptian state may have an intention to consider joining the Optional Protocol. Egypt is also among the countries joining the Group of Friends of the Convention against Torture, which in some of its activities has called for joining the Optional Protocol¹². Maat believes that Egypt's accession to the Optional Protocol annexed to the Convention against Torture may represent a positive step that will place Egypt among the limited countries that have joined the Protocol whether at the international or regional levels. With the issuance of a presidential decision to join the protocol by placing the instrument of ratification with the United Nations Secretariat, Egypt will be among more than 90 countries that have joined the Optional Protocol and will be one of eight countries in the Middle East and North Africa region.

Capacity Building and Training of Law Enforcement, Police and Judges

The Committee asked in the list of issues addressed to the Egyptian government to explain whether the training provided in the field of human rights capacity building is required or not. It also requested a statement of how many times these trainings have been held. Available statistics indicate that, since its establishment, the Police Research Centre of the Egyptian Ministry of the Interior has held 345 training courses in human rights and community protection, most of which are related to training on the best ways to deal with detainees¹³. This goal also serves what Maat has noticed about the existence of training centers for police cadres attached to rehabilitation centers, as these centers provide in-depth training programs for officers and officials of the center's administration. Among the recent examples documented by Maat, on August 15, 2023, the National Council for Human Rights participated in a training workshop to train police officers on the Standard Minimum Rules for the Treatment of Prisoners "Nelson Mandela Rules," which was held during the Council's visit to the Correction and Rehabilitation Centre Center in 10th of Ramadan¹⁴. It should be noted that five of the Standard Minimum Rules for the Treatment of Prisoners explicitly provide for protection from various abuses and torture practices¹⁵. Maat also praises the promising partnership that the Egyptian Ministry of Interior has accepted with the

¹² Egypt joins international 'Group of Friends' against torture, Daily News Egypt, <https://www.dailynewsegypt.com/2014/11/30/egypt-joins-international-group-friends-torture/>

¹³ Police Academy organizes two training sessions in the fields of human rights and combating illegal immigration, Cairo 24, <https://www.cairo24.com/1789391>

¹⁴ The National Council for Human Rights visits the Correction and Rehabilitation Center in 10th of Ramadan, the National Council for Human Rights, <https://www.nchr.eg/ar/news-details/1087>

¹⁵ United Nations Standard Minimum Rules, https://www.unodc.org/documents/justice-and-prison-reform/GA-RESOLUTION/A_ebook.pdf

International Committee of the Red Cross, as in August 2023, the Ministry of Interior organized eight training courses for police personnel in cooperation with the Authority¹⁶.

The Ministry of Justice, represented by the Human, Women, and Children's Rights Sector, also continued to train and build the capabilities of court presidents in accordance with the provisions of the Convention against Torture. On March 9, 2022, the Ministry organized, in partnership with the United Nations Office on Drugs and Crime, a national workshop on facilitating victims' access to justice within the framework of activating some of the goals targeted by the National Human Rights Strategy, this two-day workshop was attended by a group of national and international experts in facilitating victims' access to justice and about 30 presidents of the courts of first instance and technical members of the judicial inspection sector participated. The workshop focused, in an interactive framework, on the concept of human rights in the context of criminal justice in accordance with international treaties, in addition to the principles and standards of the United Nations regarding victims' access to justice. However, Maat still notes that there is insufficient awareness among some members of the police and judiciary regarding the provisions of the Convention, as well as there is a slowdown in disseminating and disseminating the provisions of the agreement in most sectors affiliated with the two ministries.

Investigating Allegations of Torture

The Committee against Torture asked Egypt to indicate whether it has opened investigations into allegations and alleged practices of torture committed by police officers. Maat commends the Egyptian government for not denying the occurrence of some practices that amount to torture by some police officers from time to time. These are facts according to the Egyptian government will be followed by criminal trials or disciplinary convictions, such as transfer to a lower level in the ministry's office or even stopping promotion in less serious incidents. Some argue that these practices are no more than individual practices, do not represent a departure from the prohibition of this crime, and do not, in any case, advance to become a mainstream approach to police forces or systematic practice.

In the same context, the latest available statistics, according to official data on criminal investigations and trials of police officers conducted from the beginning of 2014 to 10 April 2019, have included the following: 30 incidents of torture, 66 incidents of coercion, and 215 incidents of ill-treatment. Criminal investigations and prosecutions have resulted in 70 convictions, 156 discontinuances and 85 cases still ongoing¹⁷.

However, Maat continues to see the need to keep the data up to date and to share these statistics with stakeholders through legitimate channels to evaluate the reported decline in individual abuses carried out by police officers in places of detention. It is worth noting that investigations into allegations of torture represent an implementation of target Result No. 3 in the first subparagraph on the right to life and physical integrity in the first axis of the National Human Rights Strategy, and the continuation of these investigations regularly represents an achievement of this target result. Maat had noticed a decrease in incidents related to torture during the period following Egypt's submission of its report to the committee. However, these practices did not end. On September 28, 2022, the Minya Criminal Court issued a ruling against two police officers named "A.M" and "M.N" to imprisonment with aggravated

¹⁶ The Ministry of the Interior organizes eight training courses at the Police Academy headquarters in coordination with the International Committee of the Red Cross in the field of human rights... the bodies concerned with human rights in the Arab countries, <https://www.aimc-hr.org/news/hr-news/14547>

¹⁷ Fifth periodic report submitted by Egypt under article 40 of the Covenant, <https://tinyurl.com/ms965jw6>

imprisonment for 6 years¹⁸, after being accused of detaining a citizen named “M.K.” in Dalja Police Station in Minya Governorate, and his death in custody. The forensic report had proven that a physical examination of the victim found visible injuries to his face, chest, and abdomen¹⁹. In another similar incident, in August 2021, the Public Prosecution, as the authority authorized to file criminal cases in cases of torture accused by public employees, issued a statement detaining a police officer working in the Montazah First Division for fifteen days as a precautionary measure pending the case, after he physically assaulted a lawyer claiming (E.L.) While performing his work in the Department Office, the latter suffered injuries to the brain and head, which is an assault that amounts to torture against a citizen while performing his work²⁰. The Montazah First Misdemeanor Court renewed the officer’s detention twice before he was released pending investigations and paid a fine. In another positive step, in December 2019, the Inspection and Control Sector of the Ministry of Interior referred a police officer to investigate an assault on a transport vehicle driver while he was supervising a traffic campaign on the Western Desert Road within the scope of the Minya Security Directorate²¹.

Intersection between Human Trafficking and Torture

There is a clear intersection between human trafficking in its various forms and ill-treatment and other practices that may amount to torture, and it has been reported that the phenomenon of trafficking represents an aspect similar to modern slavery. The Committee previously urged the Egyptian government to enforce Law No. 64 of 2010, which aims to combat human trafficking and its subsequent amendments. In addition to guaranteeing access to effective remedies and compensation for victims, providing adequate protection programs for victims and witnesses, and offering non-custodial housing for potential trafficking victims during identification operations.

Maat noted the efforts made by Egypt to reduce torture practices in the context of human trafficking. In the years 2021-2022, Egypt began investigating 225 human trafficking incidents for crimes related to sexual trafficking and forced labor, and these incidents included 717 suspected defendants²². The Egyptian government also continued the steps aimed at combating human trafficking, as it launched the national system where people can report complaints, and they have opened a shelter specifically for women and girls who are victims of human trafficking; to ensure privacy and provide rehabilitation and integration programs. Also within the framework of previous efforts, Maat noted the establishment of specialized prosecution offices and judicial departments to speed up the process of deciding on human trafficking cases and bringing perpetrators to justice. They also prioritize protecting the victims and witnesses, as well as safeguarding their data²³. In this context, Maat noted that the National Coordinating Committee for Combating and Preventing Illegal Migration and Trafficking in Persons issued the National Referral Mechanism in July 2022. This mechanism was entrusted with distributing roles to the stakeholders concerned with dealing with victims of human trafficking²⁴. It identified specific entities responsible for receiving complaints, such as the National specialized

¹⁸ Minya Felony: Aggravated 6 years for two police officers who caused the death of a citizen, Al-Shorouk, <https://www.shorouknews.com/news/view.aspx?cdate=28092022&id=09f6fb26-4bf4-420f-8f20-bbb5e34e7542>

¹⁹ Ibid

²⁰ The Public Prosecutor orders the imprisonment of a police officer in the Montazah First Division for assaulting a lawyer, Youm7, <https://tinyurl.com/4x5zbys2>

²¹ An officer assaults a driver... and the Interior Ministry refers the incident to the Inspection Department. <https://www.almasryalyoum.com/news/details/1456546>

²² 2023 Trafficking in Persons Report: Egypt, <https://www.state.gov/reports/2023-trafficking-in-persons-report/egypt>

²³ Ibid

²⁴ National referral mechanism for victims of human trafficking, <https://www.nccpimandtip.gov.eg/ar/Awareness/6>

councils, the Ministry of Manpower, the Ministry of Interior, and the Administrative Control Authority. It also identified the entities entrusted with reporting in the Ministry of Interior and the Administrative Control Authority. Additionally, it stated that the Public Prosecution would handle investigations, while the Ministry of Social Solidarity would be responsible for accommodating victims of human trafficking²⁵.

Despite this, Maat still notes some of the challenges facing the Egyptian government in combating human trafficking and redressing its victims, especially the limited services provided to victims, such as shelters, which remain insufficient. Maat also noted that the government relies in part of its actual strategy in combating human trafficking on international organizations, especially in dealing with non-Egyptian victims of trafficking. Practices that may amount to human trafficking and that lead to torture also continue in social care homes. For example, last April Maat reviewed reports indicating that a care home for homeless women with disabilities called “Zahrat Misr” is located in Badr City, Cairo Governorate; its director practiced various types of abuse, some of which amounted to torture, against the women residents of this home with disabilities. However, Maat was not able to confirm that the Public Prosecution had opened an investigation into the reports filed against the manager of this house²⁶.

Compensation for Victims of Torture

In its list of issues, the Committee requested the Egyptian Government to provide statistical data on measures of reparation and compensation, including means of rehabilitation, ordered by courts or other State bodies and provided to victims of torture or ill-treatment or their families.

During the recent period, Maat noted that the Egyptian courts continue to issue compensation sentences for some torture practices that led to a violation of the right to life within the meaning stated in the Egyptian Constitution and international human rights conventions. The courts have granted compensation for cases of torture resulting in death. For example, on December 28, 2021, the Third Circuit issued compensation, ruling in Case No. 152 of 2018, compensating “Khaled Saeed’s family” in the amount of one million Egyptian pounds²⁷. Khaled Saeed was killed on June 6, 2010, in the Sidi Gaber police station in Alexandria. The Public Prosecution referred the two defendants to a criminal trial, accusing them of unlawfully arresting him, and inflicting the injuries described in the two forensic reports²⁸. On July 10, 2023, the 21st Civil Circuit of the Cairo Court of Appeal rejected the appeal filed by the Ministry of Interior, a secretary, and a police sergeant against the ruling obtained by Khaled Saeed’s heirs to compensate him in the amount of one million pounds, for his murder.

²⁵ Ibid

²⁶ A complaint against a shelter for homeless people with disabilities on charges of torture and human trafficking, last week, <https://www.elaosboa.com/874695/>

²⁷ After 12 years.. a court ruling to compensate Khaled Saeed’s heirs one million pounds, Masrawy, <https://tinyurl.com/7v7n6adu>

²⁸ Court orders Khaled Saeed’s heirs to receive LE1 mln in compensation, <https://www.egyptindependent.com/court-orders-khaled-saeeds-heirs-to-receive-le1-mln-in-compensation/>

Recommendations

We encourage the Egyptian government to consider the following:

- Reconsidering amending Article 126 of the Penal Code to be consistent with Article 1 of the Convention against Torture
- Ratifying the Optional Protocol to the Convention against Torture
- Working to increase awareness of the provisions of the agreement among members of the police, the judiciary, and the state's administrative apparatus, and sharing the provisions of the agreement as widely as possible.
- Updating data related to the investigation of police officers into allegations of torture and disciplinary convictions to which members of the agency are exposed if they engage in this practice, to enable stakeholders to assess compliance with the provisions of the Convention.
- Working to prepare a comprehensive draft law that addresses the criminalization of torture and imposes more stringent penalties on perpetrators, in accordance with the Egyptian Constitution and Egypt's international obligations.
- Increasing the pace of prosecutions of human traffickers and increasing the punishment for these convicted traffickers, especially those involved in torture practices against trafficking victims.

We urge the Committee to consider the following:

- Providing technical support and assistance to the Egyptian government to fulfill its obligations in implementing the provisions of the agreement